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MAXIM INTEGRATED PRODUCTS, INC.

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
11

12 Gregory Bender,

13 Plaintiff,

14 v.

15 Maxim Integrated Products, Inc.,

16 Defendant.
17

Case No. C09-01152 SI

**MOTION TO TEMPORARILY
RELIEVE MAXIM'S DISCOVERY
OBLIGATIONS PENDING
RESOLUTION OF MAXIM'S
MOTION TO COMPEL**

ADMINISTRATIVE MOTION

18
19 Pursuant to Civil L.R. 6-3, Defendant Maxim Integrated Products, Inc., ("Maxim")
20 through its counsel, hereby requests the Court to temporarily relieve Maxim from its obligations
21 to produce technical documents under the Federal Rules of Civil Procedure and its obligations to
22 serve Patent Local Rules 3-3 and 3-4 disclosures on Plaintiff Gregory Bender ("Bender"), until no
23 earlier than 14 days after the Court rules on Maxim's Motion to Compel Infringement
24 Contentions filed concurrently with this motion.

25 Bender served Patent L.R. 3-1 infringement contentions on September 29, 2009. Maxim
26 contends that these infringement contentions do not contain the requisite detail and information
27 regarding infringement as required by Patent L.R. 3-1. Concurrently with this motion, Maxim
28 has brought a motion to compel more detailed infringement contentions from Bender based on the

1 results of reverse engineering. As part of that motion, Maxim moves the Court for an order
 2 relieving it of its discovery obligations until 45 days after Bender complies with the Order by
 3 amending his infringement contentions to include the results of reverse engineering as required by
 4 Patent L.R. 3-1. The instant motion fills the gap between filing of the motion and when the Court
 5 rules on the motion to compel by requesting that Maxim's discovery obligations temporarily be
 6 relieved until the Court rules on Maxim's motion to compel.

7 As discussed in the motion to compel, and incorporated herein by reference, Maxim has
 8 several rapidly approaching deadlines for producing technical documents to Bender. These
 9 obligations include explicit document requests from Bender seeking confidential schematics for
 10 all of Maxim's devices, as well as Maxim's obligations stemming from Patent L.R. 3-3 and 3-4
 11 which require disclosure of invalidity contentions and technical documents related to the alleged
 12 infringement to be produced 45 days after service of the infringement contentions. The Patent
 13 Local Rules set a deadline of November 13, 2009 for service of Maxim's Patent L.R. 3-3 and 3-4
 14 disclosures. However, given the briefing schedule dictated by the Local Rules, 35 days from
 15 filing puts Maxim's motion to compel being heard no sooner than November 20, 2009. Without
 16 the requested relief, under the Federal Rules and Patent Local Rules, Maxim will be obligated to
 17 produce technical documentation before the Court has a chance to consider its motion to compel
 18 and attendant request for relief, thereby prejudicing Maxim as discussed in Maxim's motion to
 19 compel. Relieving Maxim of its discovery obligations pending the Court's order on Maxim's
 20 motion to compel serves the same goals as compelling the amendment, namely avoiding
 21 prejudice to Maxim with respect to its ability to prepare its invalidity defense while ensuring that
 22 discovery takes a proper and ordinary course. *See Intertrust Techs. Corp. v. Microsoft Corp.*, No.
 23 C 01-1640 SBA, 2003 U.S. Dist. LEXIS 22736, at *4 (N.D. Cal., Nov. 26, 2003); *Townshend*
 24 *Intellectual Prop. L.L.C. v. Broadcom Corp.*, No. C 06-05118 JF (RS), 2007 U.S. Dist. LEXIS
 25 51792, at *8 (N.D. Cal. July 5, 2007); *Am. Video Graphics, L.P. v. Elec. Arts, Inc.*, 359 F. Supp.
 26 2d 558, 560 (E.D. Tex. 2005).

27 Therefore, in the interests of efficiency and of avoiding potentially unnecessary expenses
 28 and time of this Court and of the parties, and to allow for a meaningful determination on the

1 merits of Maxim's motion to compel, Maxim respectfully requests that the Court relieve Maxim
2 of its obligations to produce technical information under the Federal Rules and its obligations to
3 serve its Patent L.R. 3-3 and 3-4 disclosures until no earlier than 14 days after the Court rules on
4 Maxim's motion to compel.

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6 Dated: October 16, 2009

Respectfully submitted,

7 Jones Day

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9 By: /s/ Gregory Lippetz

10 Greg L. Lippetz

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